IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 17738 of 2007(J)

OA.176/2005 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

SMT.VALSA, AGED 44 YEARS,
W/O.LATE PAVU ALIAS JOSEPH,
MADASSERY HOUSE, MOOKKANNUR KARA,
MOOKKANNUR VILLAGE, ALUVA TALUK.

BY ADV. SRI.B.N.SHIVSANKAR

RESPONDENTS:

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1. THE SENIOR MANAGER,
BHARAT OVERSEAS BANK LIMITED,
M.G.ROAD, ERNAKULAM, KOCHI - 11.

2. THE REGISTRAR,
DEBTS RECOVERY TRIBUNAL
(KERALA & LAKSHADWEEP), 5TH FLOOR,
KSHB BUILDING, PANAMPILLY NAGAR,
ERNAKULAM, KOCHI - 682 036.

3. THE RECOVERY OFFICER,
OFFICE OF THE RECOVERY OFFICER,
DEBTS RECOVERY TRIBUNAL (KERALA & LAKSHADWEEP),
8TH FLOOR, KSHB BUILDING, PANAMPILLY NAGAR,
KOCHI - 682 036.

4. SRI.SUNNY A.MATHEW, MANAGING PARTNER,
M/S.FAIR TRADE MARKETING, G.F/8,
BUILDING NO.4172, AMEEN CHAMBERS, KARIMPATTA
ROAD, ERNAKULAM, KOCHI - 682 016.

R1 BY ADV. SRI.S.EASWARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE RELEVANT PAGES OF THE ORIGINAL APPLICATION, O.A 176 OF 2005

EXT.P2 TRUE COPY OF THE NOTICE NO. DRC 2452/BHOB/EKM DATED 14.5.2007 ISSUED BY 3RD RESPONDENT.

1ST RESPONDENT'S EXHIBITS:

EXT.R1(a) TRUE COPY OF FINAL ORDER DATED 7.7.2006 IN OA NO. 176 OF 2005 OF THE DEBT RECOVERY TRIBUNAL, ERNAKULAM.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 17738 OF 2007

Dated this the 17th day of July, 2007

JUDGMENT

Petitioner is the guarantor's wife challenging recovery proceedings initiated against the property mortgaged by her late husband. Counsel for the first respondent rightly pointed out that guarantor's property mortgaged for the loan can be sold along with defaulter's property. However, since defaulter's property is four cents of land in Ernakulam town, I feel on equitable ground third respondent should sell fourth respondent's property first and thereafter he will proceed against the guarantor's property, if debt is not fully satisfied by sale of the principal debtor's property. W.P. is accordingly disposed of directing the third respondent to immediately notify for sale of fourth respondent's property and if sale proceeds is not sufficient to meet the debt, he will give an opportunity to the petitioner to clear the balance liability by making payment, failing which, the property mortgaged by petitioner's late husband also will be sold.

(C.N.RAMACHANDRAN NAIR)
Judge